

Yellowstone County



COMMISSIONERS
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September 22, 2026

Members of the Yellowstone County Legislative Delegation
Montana State Legislature
P.O. Box 200500 & P.O. Box 200400
Helena, MT 59620-0500

Subject: *Right to Compute Act (Mont. Code Ann. §§ 2-10-201 to 2-10-207) — Impact on Local Regulation of Data Centers*

Dear Members of the Delegation,

On behalf of the Yellowstone County Board of County Commissioners, we write to share the Board's concerns regarding the Right to Compute Act, Mont. Code Ann. §§ 2-10-201 to 2-10-207, enacted by the 2025 Legislature and effective April 16, 2025. While the Board appreciates the Legislature's interest in protecting Montanans' access to computational technology, we believe the Act as written is overbroad and, in its current form, meaningfully limits the County's ability to regulate data center development within its jurisdiction.

The Act declares a fundamental right to own and make use of computational resources and provides that any government action restricting the private ownership or use of those resources for lawful purposes must be "demonstrably necessary and narrowly tailored to fulfill a compelling government interest." See Mont. Code Ann. §§ 2-10-202, 2-10-204. Although that principle may be sound as applied to an individual's personal use of computers and software, the Act's broad reference to "computational resources" and its exacting standard of review sweep in far more than we believe the Legislature intended.

The Board's specific concern is the Act's effect on the siting and operation of large-scale commercial data centers. These facilities carry significant local impacts, including intensive electricity and water consumption, noise, land use and zoning considerations, strain on public infrastructure, and demands on emergency services. Counties have traditionally addressed such impacts through ordinary land use, zoning, permitting, and public health and safety regulation. As drafted, however, the Act invites the argument that these routine local measures restrict the ability to privately make use of computational resources and must therefore satisfy strict, compelling-interest scrutiny. That standard is difficult to meet and creates real uncertainty about whether the County may continue to exercise its customary regulatory authority over these developments. This creates a corresponding chilling effect on the County's ability to protect its residents, infrastructure, and natural resources.

To be clear, the Board is not taking a position for or against the development of data centers. Rather, the Board's concern is to preserve the County's ability to address the local impacts of

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such developments through its traditional regulatory authority. We recognize that the Act was likely aimed at safeguarding individual liberty rather than exempting industrial-scale facilities from local oversight. The statute's breadth, however, leaves that distinction unclear. We respectfully ask that you review this issue and consider whether the Act, as applied to commercial data centers and local land use authority, reaches further than intended.

Accordingly, the Board requests that you work with other members of the Legislature to refine the Right to Compute Act, for example, by clarifying that the Act does not displace the traditional authority of counties and municipalities to regulate the siting, construction, and operation of data centers and similar commercial facilities through zoning, permitting, and public health and safety measures. We would welcome the opportunity to serve as a resource, and County staff are available to provide additional detail on the local impacts we are seeing in Yellowstone County.

Thank you for your service to Yellowstone County and for considering this proposed reform.

Sincerely,

YELLOWSTONE COUNTY BOARD
OF COUNTY COMMISSIONERS

Mark Morse, Chair

Michael J. Waters, Member

Chris White, Member